

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVID MILLER as TRUSTEE OF THE
MILLER PROTECTIVE TRUST UA
02/13/2019, and DAVID MILLER FBO
HARLLON HOLDINGS LLC, and
DAVID MILLER FBO VISION CAPITAL NY,
Inc., and DILLON MILLER FBO the DJM
GROUP INC., and ARLENE LEIBSOHN,

Index No.: 24-cv-8792-GHW

CERTIFICATION OF RICHARD
DEVITA

Plaintiffs,

-against-

PRESSURE BIOSCIENCES, INC., and
RICHARD SCHUMACHER,

Defendants.

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I, Richard D. DeVita, do hereby certify under penalties of perjury:

1. I am counsel for the plaintiffs in this case. I am admitted to practice and in good standing with this Court. I submit this certification based upon my personal knowledge and facts set forth herein in support of plaintiffs' filing of an amended complaint, pursuant to Fed. R. Civ. P. 15(a)(1).
2. Pursuant to the Civil Case Management Plan and Scheduling Order dated April 18, 2025 (ECF 30), specifically at ¶4, amended pleadings are permitted by Fed. R. Civ. P. 15(a)(1) and the Court's local rules, without a motion.
3. Fed. R. Civ. P. 15(a)(1) states:
A party may amend its pleading once as a matter of course no later than 21 days after serving it, or if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

4. In Calculating the due date or deadline pursuant to the FRCP, under amended FRCP 6 (a)(1), all deadlines stated in days, no matter the length of the period, are computed in the same way. The day of the event that triggers the deadline is not counted. All other days - including intermediate Saturdays, Sundays, and legal holidays - are counted, with only one exception: If the period ends on a Saturday, Sunday, or legal holiday, then the deadline falls on the next day that is not a Saturday, Sunday, or legal holiday. The end of the last day of a period is defined as midnight in the court's time zone.
5. The Complaint was filed March 28, 2025 (ECF 21).
6. The Answer was filed on April 21, 2025 (ECF 31), and accordingly the deadline starts on April 22, 2025.
7. Counting 21 days from that start brings us to today, May 12, 2025.
8. Accordingly, Plaintiffs are in the time to file an amended complaint, as of right, and thus without a motion for leave to amend the complaint, and thus without brief.
9. The Court may recall that the filing of the complaint was discussed at our joint conferences, and the addition of these now added defendants was discussed. This includes the joint letter dated January 2, 2025 [ECF 9] in which the captioned defendants did not object at that time to the additional defendants:

Additional defendants may include: (i) Richard Schumacher, the Defendant firm's President, Chief Executive Officer, Principal Executive Officer, and Principal Financial Officer; (ii) the firm's outside banker, Terry Brodt; and (iii) Mr. Brodt's associated firms Garden State Investment Advisory Services LLC and Garden State Securities Inc. (the "Garden State Entities"). While adding Mr. Brodt and the Garden State Entities was discussed during the meet-and-confer, Plaintiff did not advise defense counsel of its intent to add Mr. Schumacher until after the meet-and-confer, and Defendant presently objects to Mr. Schumacher being named as a defendant in this action.

10. The Garden State Entities were not originally named as settlement discussions were proceeding.
11. Defendants' counsel has advised that he would object to the additions if a motion was filed.
12. ECF 12 and 15 also discuss additional defendants.
13. Annexed hereto as Exhibit 1 is a true copy of the amended complaint, redlined for the Court's and parties' benefit.
14. Annexed hereto as Exhibit 2 is a true copy of the clean version amended complaint.
15. As demonstrated by the amendment, its filing: (i) corrects a few typographical errors, (ii) adds defendants Garden State Entities, and (iii) removes the RICO claim and verbiage thereunder.
16. I do not believe this will impact other scheduled dates or deadlines in the order.

Respectfully submitted,
By Richard DeVita